IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2420 OF 2006

Tetsuo Hirayama... .... Applicant.
Versus
State of Maharashtra..... .... Respondent.

Mr. A. B. Vagyani for the Applicant.
Mrs. M.M.Deshmukh, APP for State.

CORAM : D. B. BHOSALE, J.

DATED : 3RD JULY, 2006.

P.C.:

Heard learned Counsel for the parties.

2. By this application, the Applicant has challenged challenged the order dated 25th April, 2006 passed below Exhibit 58 - Application filed by Accused No.2. By that application, the Applicant, who is Japanese national, had prayed for allowing one Mr.Ashutosh Kulkarni to interpret the court proceedings and explain the same to the Accused No.2 during recording of statement under Section 313 of the Criminal Procedure Code. Learned Judge rejected the said application and while so doing in paragraph 4 of the order made the following observations:

"It reveals that charge came to be framed against applicant - accused along with co-accused on 14/5/04 in English and is explained to both the accused in English to which they pleaded not guilty. Prosecution by examining P.W.2 had proved statement of accused No.2 on record at Exh.18 which is in English and is corroborated by the evidence of P.W.2 wherein he has deposed that during investigation he has recorded statement of accused No.2 which is scribed by him in English. Though P.W.2 while under cross-examination is suggested that no such statement is given by accused No.2 and that same is fabricated, said suggestion can be considered at the time of judgment and at this stage merely because such suggestion is put, it cannot be said that accused No.2 is not conversant with English language or that said document is fabricated. On the contrary I find much force when it is contended that in spite of framing of charge against accused No.2 on 14/5/04, no any grievance is made on behalf of accused No.2 as contended in this application and same

since is filed at belated stage, I find no reason to allow the same. Even there is no retraction of accused No.2 to his statement on record. Similarly, record reveals that accused No.2 on giving instructions to his advocate on record, had applied for providing him medical treatment which applications were allowed, which fact also reveals that accused No.2 had communicated with his advocate on record in English. All these facts thus go to show that present application is filed by accused No.2 just to doubt case of prosecution as stated earlier. The application is therefore liable to be rejected."

3. Considering the aforesaid view recorded by the learned Judge, I find no reason to interfere with the order impugned in the application. However, I observe that it is always open for the Applicant and his lawyer to take assistance of any one during the trial, however, such person has no right of audience and to disturb the court proceedings in any manner whatsoever. This application is rejected.

Sd/-

(D. B. BHOSALE, J.)